

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GABINO GENAO,

Plaintiff,

v.

CITY OF NEW YORK; CAPTAIN SMITH;  
CAPTAIN ANDERSON; WARDEN WALKER;  
ADJUDICATION CAPTAIN; OSIU CHIEF  
JOHN DOE; CORRECTION OFFICER  
SMART; ESH DEPUTY OF SECURITY RENÉ,

Defendants.

**ORDER**

20 Civ. 8721 (ER)

RAMOS, D.J.

On December 15, 2020, Gabino Genao brought this action, *pro se*, pursuant to 42 U.S.C. § 1983, alleging that the City of New York (the “City”) and several members of the correctional staff officers violated his constitutional rights while he was detained on Rikers Island. Doc. 1. On February 16, 2021, Genao requested assistance challenging denial of requests he had made under the New York Freedom of Information Law (“FOIL”). Doc. 15. However, any challenge to a final denial of a FOIL request must be raised by Article 78 petition in New York State Supreme Court. N.Y. Pub. Off. § 89(5)(d)(i); C.P.L.R. § 7801 *et seq.*; *Papay v. Haselhuhn*, No. 07 Civ. 3858 (LAP), 2010 WL 4140430, at \*8 (S.D.N.Y. Oct. 21, 2020) (“Plaintiff’s next step, after following the appeal procedures outlined in FOIL itself, would be to seek review pursuant to Article 78.”).

Genao’s request for assistance is therefore denied.

It is SO ORDERED.

Dated: February 17, 2021  
New York, New York



Edgardo Ramos, U.S.D.J.